

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application No. 09/955,473

Applicant: Paul W. Forney, et al.

Filed: September 17, 2001

TC/AU: 2174

Examiner: Pitaro, Ryan F.

Docket No.: 213307

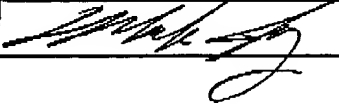
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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants request review of the final rejection, dated July 1, 2005, in the above-identified application. No amendments are being filed with this request. This request is being filed with a notice of appeal. An appeal brief has not yet been filed. This Pre-Appeal Brief Request For Review is submitted for the reason(s) stated on the attached sheets.

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Name (Print/Type)	Mark Joy		
Signature		Date	January 3, 2006

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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicants traverse the final rejection of the pending claims. In an effort to minimize the issues addressed during this review, Applicants have focused upon independent claims 1, 8, and 9 due to clear errors in the Final Office Action. Applicants request pre-appeal brief review of the final rejection of because: (1) the Khan US2002/0046254 application is not prior art; (2) the final rejection does not show proper motivation to modify Khan (even if considered prior art) in a manner supporting the obviousness rejection of claim 1; (3) the Final Office Action's rejection of claims 8 and 9, solely on the rationale of the claim 1 rejection, does not address elements recited by independent claims 8 and 9 that are not present in claim 1. Each of these grounds for Applicants' Pre-Appeal Brief Request For Review is addressed herein below.

Applicants' Representative Pending Claims (1, 8 and 9)

1. A customer-configurable plant process observation portal server for collecting plant process information, in accordance with a user designated set of information sources, and for disseminating the information to users via network connections, the portal server comprising:

an extensible information source registry for storing at least identification information corresponding to an extensible set of plant information sources accessed via the portal server;

a portal server data interface, accessible via remote networked stations, providing user access to plant information associated with the set of designated plant information sources; and

a portal configuration utility enabling a user to at least designate a new plant information source via a configuration interface, the new plant information source thereafter being added to the extensible set of plant information sources.

8. A customer-configurable plant process observation portal server for collecting plant process information in accordance with information source designations and for disseminating the information to users via network connections, the portal server comprising:

an extensible set of data handlers for processing differing types of data from a set of plant information sources accessed via the portal server;

a portal server data interface, accessible via remote networked stations, providing user access to plant information associated with the set of plant information sources; and

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a portal configuration utility enabling a user to designate a new data handler via a configuration interface, the new data handler thereafter being added to the extensible set of data handlers.

9. A customer-configurable plant process observation portal server for collecting plant process information in accordance with user specified information source designations and for disseminating the information to users via network connections, the portal server comprising:

an extensible information source registry for storing at least identification information corresponding to an extensible set of plant information sources accessed via the portal server;

a user-configurable portal server data interface, accessible via remote networked stations, providing user access to plant information represented in the extensible set of plant information sources; and

a portal data interface configuration utility enabling a user to at least designate, via a configuration interface, a new user interface display element for presenting plant process information, the new user interface display element thereafter being added to the extensible set of plant information sources.

#### Reasons for Pre-Appeal Brief Request For Review

1. The Khan et al. published application US 2002/0046254 is not prior art.

The invention recited in presently pending claim 1 (recited in its original form at page 119 of the provisional application) of the Forney '473 application (filed on Monday, September 17, 2001) is supported by Applicants' provisional application filed on September 15, 2000. The recited elements of claim 1 are disclosed in the provisional application, for example, at page 42 (overview), page 45 (2.8 Configurable Factory Portal), pages 52-53 (data source configuration), pages 55-60 (historical data and factory alarms), page 80 (portal network architecture), pages 84-85 (Configurable/Customizable framework), page 87 (Multiple Data Source Configuration), and pages 99 et seq. (overview of entire system). Applicants are therefore entitled to *at least* the priority date of their provisional application, filed on September 15, 2000. Applicants are entitled to an even earlier date, based upon their earlier conception and diligence regarding the claimed invention.

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The Khan et al. application, upon which the Final Office Action relies, was filed on July 13, 2001. Furthermore, the Final Office Action's rejection of claim 1 relies upon disclosure in the Khan et al. application (e.g., paragraph [0004]) that is not present in the parent application (Khan et al. U.S. Patent 6,438,575). For at least this reason, the Final Office Action's rejection of claim 1, and each of the independent claims, should be withdrawn.

2. The Final Office Action does not present a *prima facie* case of obviousness.

Applicants submit that the final rejection does not show proper motivation to modify Khan (even if considered prior art) in a manner supporting the obviousness rejection of claim 1. In particular, Applicants submit that the existence of plant processes and process control systems (as disclosed in Wewalaarachchi et al. U.S. Patent No. 6,571,140) cannot, by itself, provide motivation to modify Khan's disclosed system to render the claimed invention.

The Final Office Action, at the bottom of page 2, asserts that Khan teaches a "plant process observation portal server." Applicants submit that Khan does not even mention a plant or suggest that the disclosed information hub is appropriate for use in an industrial plant process environment. Instead, Khan describes a public information portal environment (e.g., on-line newspapers and other public content providers). To the extent the rejection of claim 1 is based upon the above assertion, it is improper and should be withdrawn.

The Final Office Action later admits, on page 3, that Khan does not disclose a system that utilizes plant process information. The Action states, however, Wewalaarachchi teaches a plant process. The Final Office Action asserts that the motivation to modify Khan would have been to provide a diverse way to control a real time system. However, the prior art neither discloses nor suggests that the disclosed system in Khan would be desirable in a plant process control environment. The Khan application discloses a variety of mass-distribution information data sources that are generally available to all the public. Such data access/distribution environment differs substantially from Applicants' disclosed and claimed process control environment data sources. The needs and desires in a plant process observation/control environment cannot be equated with the public information environment disclosed in Khan. For at least this reason, the Final Office Action's rejection of claim 1 as obvious over Khan in view of Wewalaarachchi is clearly improper and should be withdrawn.

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3. Claims 8 and 9 cannot be summarily dismissed under the rationale of claim 1.

Independent claims 8 and 9 include elements that are not present in claim 1. Claim 8 recites an extensible set of *data handlers* for processing differing types of data. As explained in Applicants' original specification, the data handlers (see Data Handlers 130) handle different types of plant process information – as opposed to different sources of plant information. Thus, the Final Office Action's equating plant information data sources (claim 1) and data types (claim 8) is improper.

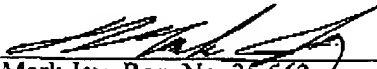
Claim 9 recites a portal data interface configuration utility enabling a user to designate *a new user interface display element for presenting plant process information*. A user interface *display element* for presenting plant process information differs from a plant *information source*. Thus, the Final Office Action's reliance on the claim 1 rejection to support the rejection of claim 9 is improper.

Conclusion

The cited primary reference (Khan US2002/0046254) is not prior art to the presently claimed invention. Furthermore, the Final Office Action has not set forth a *prima facie* case of obviousness for the rejection of the claims since there is no motivation in the prior art to modify the portal disclosed in the Khan application to operate as a plant process observation portal as required in each of the presently pending claims. Finally, the rejection of independent claims 8 and 9 does not provide a *prima facie* case of obviousness. Claims 8 and 9 both include elements that are not present in independent claim 1. Therefore, the rationale for rejecting claim 1 does not address all the elements of claims 8 and 9.

For these reasons, expedited review of the final rejection is requested to remedy clear errors.

Respectfully submitted,

  
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Date: January 3, 2006  
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